

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

DAVID A. TURNER,)	
)	
Petitioner,)	
)	
v.)	Case No. 4:06CV1473RWS
)	
JAMES PURKETT,)	
)	
Respondent.)	

MEMORANDUM AND OPINION

This matter is before me on the petition for writ of habeas corpus filed by Petitioner David A. Turner. I referred this matter to United States Magistrate David D. Noce for a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b). On February 4, 2009, Judge Noce filed his recommendation that Turner's habeas petition should be denied.

Objections to Judge Noce's Report and Recommendation were initially due to be filed by February 24, 2009. On February 12, 2009, Turner requested additional time to file his objections. I granted Turner an extension up to and including April 14, 2009. As of the date of this order, Turner has not filed any objection to the Report and Recommendation. After careful consideration, I will adopt and sustain the reasoning of Judge Noce and I will deny Turner's habeas petition for the reasons stated in the Report and Recommendation dated February 4, 2009.

I have also considered whether to issue a certificate of appealability. To grant a certificate of appealability, the Court must find a substantial showing of the denial of a federal constitutional right. See Tiedeman v. Benson, 122 F.3d 518, 522 (8th Cir. 1997). A substantial showing is a showing that issues are debatable among reasonable jurists, a Court could resolve the issues differently, or the issues deserve further proceedings. Cox v. Norris, 133 F.3d 565, 569 (8th Cir. 1997) (citing Flieger v. Delo, 16 F.3d 878, 882-83 (8th Cir. 1994)). Because Turner has not made such a showing in this case, I will not issue a certificate of appealability.

Accordingly,

IT IS HEREBY ORDERED that Judge Noce's report and recommendation [#17] filed on February 4, 2009 is adopted and sustained in its entirety.

IT IS FURTHER ORDERED that Petitioner David A. Turner's Petition for Writ of Habeas Corpus [#1] is **DENIED**.

IT IS FURTHER ORDERED that the Court will not issue a certificate of appealability.

A separate Judgment in accordance with this Memorandum and Order is entered this same date.

Dated this 24th Day of April, 2009.

A handwritten signature in black ink, appearing to read "Rodney W. Sippe", written over a horizontal line.

RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE